

REMARKS

Claims 25-26 and 28-30 are currently pending in the application. Applicants have canceled claim 27 without prejudice to introduction in a subsequent application.

Applicants have also added new claim 30. Support for new claim 30 can be found on page 8 of the specification, among other places.

Claim 25 is rejected under 35 U.S.C. § 102(b) as being anticipated by Tinney et al. CA81:145630 (hereinafter "Tinney"). Claim 25 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Tinney. Claims 25-29 stand rejected under the judicially created doctrine of obviousness-type double patenting.

Applicants have amended claims 25 and 28. Support for the present claim amendments can be found in the specification on pages 6-8, among other places.

Claim 25 and 35 U.S.C. § 102(b)

Claim 25 is rejected under 35 U.S.C. § 102(b) as being anticipated by Tinney. Applicants respectfully assert that Tinney does not disclose a compound falling within amended claim 25. As a result, Applicants respectfully assert that claim 25 is not anticipated by Tinney under 35 U.S.C. § 102 and respectfully request that the present rejection be withdrawn.

Claim 25 and 35 U.S.C. § 103(a)

Claim 25 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Tinney. Applicants respectfully traverse the present rejection.

To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). Applicants respectfully assert that Tinney does not teach or suggest all the limitations of amended claim 25. As a result, Applicants respectfully assert that claim 25 is patentable over Tinney and respectfully request that the Examiner withdraw the present rejection.

Claims 25-29 and Double Patenting

Claims 25-29 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-23 of United States Patent No. 6,713,638 to Linden et al. Applicants respectfully assert that the presently amended claims are patentably distinct from claims 1-23 of United States Patent No. 6,713,638 and respectfully request that the Examiner withdraw the present rejection.

Dependent Claims

In responding to the claim rejections above, Applicants submit that the dependent claims are patentable based on their dependency from independent claims, which Applicants argue are patentable. Thus, in many instances, Applicants have not provided separate remarks specifically directed to the Examiner's grounds for rejecting the dependent claims. Applicants' failure to comment on or otherwise traverse the Examiner's rejection of the dependent claims should not be viewed as agreement, on the part of the Applicants, with the Examiner's grounds for rejection.

New Claims

Applicants have added new claim 30, which depends from claim 28. New claim 30 recites that the ring resulting from R₄ and R₅ being taken together has 5 carbon atoms. Applicants respectfully request that this claim be deemed in condition for allowance.


CONCLUSION

For the foregoing reasons, an allowance of the claims is respectfully submitted. The Examiner is respectfully invited to contact J. Clinton Wimbish at (336) 607-7399 or Charles W. Calkins at (336) 607-7315 to discuss any matter relating to this application.

Respectfully submitted,

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Date

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